

EXHIBIT A



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VIA EMAIL

Richard F. Linden
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Re: *Taylor v. Cook County Sheriff's Office, et al.*, 13-CV-1856, 37.2 Conferences regarding Plaintiff's 9-25-2018 and 10-1-2018 Requests to Produce

Dear Counsel,

Thank you for speaking to me on October 26, 2018 and October 30, 2018 regarding Plaintiff's 9-25-2018 request for an IA Pro Report for "all OPR matters/investigations from 2009 to present" and Plaintiff's 10-1-2018 request for 88 OPR files. In the spirit of Rule 37.2, Defense Counsel agrees to make the final OPR reports for the OPR file numbers ("nos.") listed in *Attachment A* available to Plaintiff's Counsel for inspection at a location determined by Defense Counsel. As agreed, this list includes all OPR file nos., with a listed "IA No.," from the "IA Pro Tab" of Mr. Ways' OPR tracking spreadsheet, bates stamped as #8310, that were opened between January 1, 2010 to March 18, 2013. This list also includes all OPR file nos. from Plaintiff's 10.1.2018 request for 88 files that are not listed on the "IA Pro Tab" of Mr. Ways' OPR tracking spreadsheet and are within the aforementioned time period.

As agreed, Defense Counsel will permit Plaintiff's Counsel to bring their own scanner and the inspection is limited to two days. Plaintiff's Counsel will be allowed to have up to four representatives present during the inspection. Defense Counsel will also be allowed representatives to observe the inspection and/or inspect the files contemporaneously with Plaintiff's Counsel.

Additionally, Plaintiff's Counsel agrees to produce any and all documents scanned and/or copied in any other manner to Defense Counsel. Plaintiff's Counsel also agrees to deem any and all documents scanned and/or copied in any other manner as "**confidential - attorney eyes only**" until further agreement or court order. If the "confidential-attorney-eyes only" designation is lifted for any such document(s) by further agreement or court order, that document(s) will contain redactions of information prohibited from public disclosure by statute, including but not limited to the Illinois Freedom of Information Act, 5 ILCS 140/1 et seq., the Illinois Personnel Records Review Act, 820 ILCS 40/01 et seq., the Illinois Identity Protection Act 5 ILCS

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179/10(b)(1), and the Juvenile Court Act, 705 ILCS 405/1-1 et seq., as set forth in *Attachment B* hereto.

By entering into this agreement, Defendants do not admit or confirm any of the claims, allegations, assertions or opinions of Plaintiff that any of these files and/or Plaintiff's 9-25-2018 request for an IA Pro Report for "all OPR matters/investigations from 2009 to present" and/or Plaintiff's 10.1.2018 request for 88 OPR files are relevant and/or proportional to the needs of the case and/or likely to lead to the discovery of admissible evidence. First, the list of OPR file nos. in Attachment A is not limited to investigations involving individuals who are similarly situated to Plaintiff. To determine whether two employees are similarly-situated, "a court looks at all the relevant factors, which most often include whether the employees (i) held the same job description, (ii) were subject to the same standards, (iii) were subordinate to the same supervisor, and (iv) had comparable experience, education, and other qualifications." *See Bisluk v. Hamer*, 800 F.3d 928, 935 (7th Cir. 2015). A "plaintiff must show that [he] is similarly situated with respect to performance, qualifications, and conduct." *Radue v. Kimberly-Clark Corp.*, 219 F.3d 612, 617-18 (7th Cir. 2000). "This normally entails a showing that the two employees dealt with the same supervisor, were subject to the same standards, and had engaged in similar conduct without such differentiating or mitigating circumstances as would distinguish their conduct or the employer's treatment of them." *Id.*; see also *Kirk v. Advocate Health & Hosps. Corp.*, No. 16 C 3497, 2017 U.S. Dist. LEXIS 188207, at *27 (N.D.Ill. Nov. 14, 2017) (to be similarly-situated, "a showing of sufficiently analogous misconduct" is required "to support an inference that [plaintiff] was treated more harshly because of her sex"). As such, Defendants do not waive any rights to object to the use of any of these OPR investigations in motions and/or for trial purposes.

Furthermore, Defendants are making the aforementioned OPR investigation files available for inspection with the understanding that there will be no further requests to produce related to comparators and/or any other OPR investigation file(s) in the future. Lastly, by entering into this agreement, Defendants do not admit or confirm any of the claims, allegations, assertions or opinions of Plaintiff that Mr. Ways' OPR tracking spreadsheet, bates stamped as #8310, is not the same chart that Mr. Ways testified about at his deposition in *Michno*. Further, Plaintiff's Counsel should not attempt to imply that the chart produced as #8310 included the information that is obtained during the aforementioned inspection to avoid the false implication that Mr. Ways used this chart for any comparative purposes.

If I have incorrectly memorialized any part of our agreement, inform me immediately. Thank you.

Very truly yours,

HINSHAW & CULBERTSON LLP

/s/ *Vincent M. Rizzo*

Vincent M. Rizzo

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ATTACHMENT A – LIST OF OPR FILES AVAILABLE FOR INSPECTION

1. OPR2009-1276	41. OPR2010-0237	81. OPR2010-0783
2. OPR2010-0003	42. OPR2010-0241	82. OPR2010-0784
3. OPR2010-0004	43. OPR2010-0244	83. OPR2010-0787
4. OPR2010-0006	44. OPR2010-0246	84. OPR2010-0805
5. OPR2010-0009	45. OPR2010-0251	85. OPR2010-0820
6. OPR2010-0028	46. OPR2010-0260	86. OPR2010-0838
7. OPR2010-0056	47. OPR2010-0263	87. OPR2010-0855
8. OPR2010-0059	48. OPR2010-0306	88. OPR2010-0861
9. OPR2010-0069	49. OPR2010-0307	89. OPR2010-0862
10. OPR2010-0088	50. OPR2010-0321	90. OPR2010-0863
11. OPR2010-0102	51. OPR2010-0323	91. OPR2010-0864
12. OPR2010-0130	52. OPR2010-0355	92. OPR2010-0866
13. OPR2010-0139	53. OPR2010-0364	93. OPR2010-0867
14. OPR2010-0141	54. OPR2010-0375	94. OPR2010-0868
15. OPR2010-0142	55. OPR2010-0393	95. OPR2010-0869
16. OPR2010-0143	56. OPR2010-0395	96. OPR2010-0871
17. OPR2010-0149	57. OPR2010-0398	97. OPR2010-0872
18. OPR2010-0156	58. OPR2010-0401	98. OPR2010-0874
19. OPR2010-0157	59. OPR2010-0409	99. OPR2010-0881
20. OPR2010-0158	60. OPR2010-0413	100. OPR2010-0883
21. OPR2010-0159	61. OPR2010-0418	101. OPR2010-0916
22. OPR2010-0160	62. OPR2010-0428	102. OPR2010-0939
23. OPR2010-0161	63. OPR2010-0457	103. OPR2010-0946
24. OPR2010-0163	64. OPR2010-0487	104. OPR2010-0963
25. OPR2010-0164	65. OPR2010-0488	105. OPR2010-0966
26. OPR2010-0165	66. OPR2010-0533	106. OPR2010-0989
27. OPR2010-0166	67. OPR2010-0543	107. OPR2010-0989
28. OPR2010-0167	68. OPR2010-0570	108. OPR2010-0997
29. OPR2010-0168	69. OPR2010-0581	109. OPR2010-1003
30. OPR2010-0169	70. OPR2010-0596	110. OPR2010-1043
31. OPR2010-0170	71. OPR2010-0602	111. OPR2010-1049
32. OPR2010-0181	72. OPR2010-0610	112. OPR2010-1085
33. OPR2010-0182	73. OPR2010-0631	113. OPR2010-1092
34. OPR2010-0185	74. OPR2010-0649	114. OPR2010-1119
35. OPR2010-0186	75. OPR2010-0678	115. OPR2010-1124
36. OPR2010-0188	76. OPR2010-0727	116. OPR2010-1125
37. OPR2010-0210	77. OPR2010-0728	117. OPR2010-1127
38. OPR2010-0223	78. OPR2010-0733	118. OPR2010-1150
39. OPR2010-0231	79. OPR2010-0761	119. OPR2010-1150
40. OPR2010-0234	80. OPR2010-0776	120. OPR2011-0013

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121. OPR2011-0022	140. OPR2011-0604	160. OPR2010-0947
122. OPR2011-0030	141. OPR2011-0605	161. OPR2010-1065
123. OPR2011-0045	142. OPR2011-0634	162. OPR2011-0051
124. OPR2011-0055	143. OPR2011-0645	163. OPR2011-0125
125. OPR2011-0134	144. OPR2011-0668	164. OPR2011-0386
126. OPR2011-0179	145. OPR2011-0685	165. OPR2011-0607
127. OPR2011-0203	146. OPR2011-0699	166. OPR2011-0702
128. OPR2011-0243	147. OPR2011-0717	167. OPR2011-0729
129. OPR2011-0259	148. OPR2011-0759	168. OPR2011-0745
130. OPR2011-0286	149. OPR2011-0800	169. OPR2011-0903
131. OPR2011-0304	150. OPR2010-0027	170. OPR2011-0996
132. OPR2011-0314	151. OPR2010-0055	171. OPR2012-0024
133. OPR2011-0337	152. OPR2010-0442	172. OPR2012-0026
134. OPR2011-0341	153. OPR2010-0593	173. OPR2012-0132
135. OPR2011-0384	154. OPR2010-0860	174. OPR2012-0508
136. OPR2011-0391	155. OPR2010-0882	175. OPR2012-0802
137. OPR2011-0448	156. OPR2010-0896	
138. OPR2011-0558	157. OPR2010-0898	
139. OPR2011-0582	158. OPR2010-0907	
	159. OPR2010-0922	

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ATTACHMENT B – FOIA AND OTHER STATUTORY EXEMPTIONS

ITEM TO REDACT	EXEMPTION
Names of civilian witnesses	5 ILCS 140/7(1)(d)(iv)
Names of civilian CR complainants	5 ILCS 140/7(1)(d)(iv)
Names of confidential sources and information that can lead to the identification of them	5 ILCS 140/7(1)(d)(iv)
Confidential information from confidential sources	5 ILCS 140/7(1)(d)(iv)
Names of crime victims (unless they are deceased)	5 ILCS 140/7(1)(c); 5 ILCS 140/7(1)(d)(iv)
Names of non-attorneys and non-government employees who are tangential to the incident (i.e., not witnesses)	5 ILCS 140/7(1)(c)
Dates of birth	5 ILCS 140/7(1)(c) (Note: the year of birth and age should <u>not</u> be redacted)
Personal telephone numbers (residential and mobile/cell)	5 ILCS 140/7(1)(b); 5 ILCS 140/7(1)(d)(iv)
Personal email addresses	5 ILCS 140/7(1)(b); 5 ILCS 140/7(1)(d)(iv)
Incident address when it is a home address	5 ILCS 140/7(1)(b); 5 ILCS 140/7(1)(d)(iv)
Home addresses	5 ILCS 140/7(1)(b); 5 ILCS 140/7(1)(d)(iv)
Information that could reveal a home address	5 ILCS 140/7(1)(b); 5 ILCS 140/7(1)(d)(iv)
Social Security numbers of others	5 ILCS 140/7(1)(a) – Illinois Identity Protection Act 5 ILCS 179/10(b)(1); 5 ILCS 140/7(1)(b); 5 ILCS 140/7(1)(c); 5 ILCS 140/7(1)(d)(iv)
Driver's License numbers	5 ILCS 140/7(1)(b); 5 ILCS 140/7(1)(d)(iv)
Personal license plate numbers	5 ILCS 140/7(1)(b); 5 ILCS 140/7(1)(d)(iv)
IR numbers of victims and witnesses	5 ILCS 140/7(1)(b); 5 ILCS 140/7(1)(c); 5 ILCS 140/7(1)(d)(iv)
Employee identification numbers	5 ILCS 140/7(1)(b)
Signatures of non-government employee witnesses, victims and complainants	5 ILCS 140/7(1)(b) – biometric identifier
Passwords or other access codes	5 ILCS 140/7(1)(b)
Attorney-client communications, materials created at the direction of an attorney (e.g., internal memoranda)	5 ILCS 140/7(m)

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Medical records	5 ILCS 140/7(1)(b)
OEMC records related to medical treatment (e.g., ambulance run sheets and EMS records)	5 ILCS 140/7(1)(a) – HIPAA, 5 ILCS 140/7(1)(b)
Medical, psychiatric, counseling and substance abuse information summary	5 ILCS 140/7(1)(c)
Juvenile law enforcement records	5 ILCS 140/7(1)(a) - Juvenile Court Act 705 ILCS 405/1-7; 705 ILCS 405/5-905
Financial account numbers	5 ILCS 140/7(1)(b); 5 ILCS 140/7(1)(c); 5 ILCS 140/7(1)(d)(iv)
Credit/Debit card numbers	5 ILCS 140/7(1)(b); 5 ILCS 140/7(1)(c); 5 ILCS 140/7(1)(d)(iv)
Photographs of victims and CR complainants	5 ILCS 140/7(1)(c); 5 ILCS 140/7(1)(d)(iv); 5 ILCS 140/7(1)(d)(vi)
Photographs that are graphic in nature	5 ILCS 140/7(1)(c)
Performance evaluations	5 ILCS 140/7(1)(a) – Personnel Records Review Act 820 ILCS 40/11
Command Channel Review	5 ILCS 140/7(1)(f)
Information which is subject to a court order on an active case (e.g., a protective order)	5 ILCS 140/7(1)(a)
Information the release of which would interfere with a pending investigation	5 ILCS 140/7(1)(d)(i)
Information the release of which would obstruct an ongoing criminal investigation	5 ILCS 140/7(1)(d)(vii)
Information the release of which would endanger the life/physical safety of Police personnel or another	5 ILCS 140/7(1)(d)(vi)
Information the release of which would interfere with legal action related to the investigation	5 ILCS 140/7(1)(d)(ii) – if disciplinary proceeding against officer; 5 ILCS 140/7(1)(d)(iii) – if prosecution of officer
Unique or specialized investigative techniques	5 ILCS 140/7(1)(d)(v)
May prevent a fair trial (taint a jury pool)	5 ILCS 140/7(1)(d)(iii)